

**ORDINANCE NO. 2018-1**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAIYNE,  
FLORIDA, AMENDING CHAPTER 4, “BOATS, VESSELS  
AND WATERCRAFT,” REGULATING KITEBOARD USE;  
AMENDING ARTICLE II OF CHAPTER 4 BY THE  
CREATION OF SECTION 4-33 “KITEBOARDING” AND  
SECTION 4-34 “KITEBOARD CHANNEL MAP;”  
PROVIDING FOR CODIFICATION; PROVIDING FOR  
SEVERABILITY; PROVIDING FOR CONFLICTS; AND  
PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Village of Key Biscayne (the “Village”) currently regulates boats, vessels and watercraft within the Village; and

**WHEREAS**, as a result of kiteboarding becoming a popular activity within the Village, the Village Council finds it necessary to regulate kiteboarding in order to prevent injury and to protect Village residents and visitors; and

**WHEREAS**, the Village Council desires to amend Chapter 4, “Boats, Vessels and Watercraft” of the Village’s Code of Ordinances by regulating the activity of kiteboarding within the Village in order to protect the health, safety and welfare of its residents and visitors within the Village; and

**WHEREAS**, the Village Council finds that adoption of this Ordinance serves a legitimate governmental purpose and is in the best interest and welfare of the Village and its residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAIYNE, FLORIDA, AS FOLLOWS: <sup>1</sup>**

**Section 1. Recitals Adopted.** That the above-stated recitals are hereby adopted and confirmed.

**Section 2. Amending Chapter 4 of the Village Code.** That Chapter 4 of the Code of Key Biscayne, Florida is hereby amended to read as follows:

**ARTICLE II. – OPERATION OF VESSELS AND KITEBOARDS IN  
DESIGNATED AREAS**

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<sup>1</sup> Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicted with **highlight**.

#### **Sec. 4-31. – Definitions.**

For purposes of this article, the following terms, phrases, words and derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and the words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory:

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Body drag shall mean a method of steering the kite through the water, without use of the kiteboard, while the Person is partially submerged in the water.

Kiteboarding shall have the same meaning as used in Section 327.02, Florida Statutes.

Kiteboard Channel shall mean the area described and shown on the Kiteboard Channel Map.

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#### **Sec. 4-32. – Prohibited water and Beach activity.**

(1) No owner, operator or Person in command of any Vessel shall permit or Operate a Vessel within the area of the Atlantic Ocean, including the Beach, 300 feet east of the Beach from the southern boundary of Crandon Park to the northern boundary of Bill Baggs, Cape Florida State Park (the "Prohibited Area"), except as authorized by the Village Council. Kiteboarding shall be prohibited within the Prohibited Area, except as authorized by the Village Council within the Kiteboard Channel. Within the Kiteboard Channel, a Person Kiteboarding shall only be permitted to Body Drag.

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#### **Sec. 4-33. – Kiteboarding.**

(1) Kiteboarding instruction is prohibited within the Village.

(2) Deployment of a Kiteboarding kite shall occur only within the Kiteboard Channel.

(3) Only ten (10) Kiteboarding kites shall be permitted at one (1) time on the Beach within the Kiteboard Channel.

**Sec. 4-34. – Kiteboard Channel Map.**

The Kiteboard Channel shall be established as provided in the Kiteboard Channel Map below.

**[INSERT REVISED CHANNEL MAP]**

**Sec. 4-353. - Enforcement.**

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**Sec. 4-364. - Penalties.**

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**Section 3. Codification.** That it is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Village Code, that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

**Section 4. Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Conflicts.** All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 6. Effective Date.** That this Ordinance shall become effective immediately after adoption on second reading.

**PASSED** on first reading this 9<sup>th</sup> day of January, 2018.

**PASSED AND ADOPTED** on second reading this 23rd day of January, 2018.

  
MAYRA PEÑA LINDSAY, MAYOR

ATTEST:

  
\_\_\_\_\_  
JENNIFER MEDINA, CMC  
VILLAGE CLERK



APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
VILLAGE ATTORNEY



SKETCH TO ACCOMPANY LEGAL DESCRIPTION  
for

VILLAGE OF KEY BISCAYNE

prepared by:



**HADONNE**

LAND SURVEYOR AND MAPPERS  
3D LASER SCANNING  
UTILITY COORDINATION  
SUBSURFACE UTILITY ENGINEERING

**EXHIBIT "A"**

**100' WIDE KITE BOARDING CORRIDOR**

LEGAL DESCRIPTION:

A Portion of land 100-feet wide, lying and being in Section 4, Township 55 South, Range 42 East, along the beach and the Atlantic Ocean located on the east side of the Village of Key Biscayne, being more particularly described as follows:

Bounded on the South by the Easterly extension of the North line of 25-foot North Beach Access Easement as Recorded in Official Records Book 29264 at Page 1644, as Recorded in the Public Records of Miami-Dade County, Florida; and bounded on the North by a line 100 foot north of and parallel of the said Easterly extension of the North line of 25-foot North Beach Access Easement; and bounded on the West by the Erosion Control Line of Plat Book 74 at Page 26, as Recorded in the Public Records of Miami-Dade County, Florida; and bounded on the East by the line created between the Florida Fish and Wildlife Conservation Commission Markers 5630-2 and 5630-3 of the Florida Uniform Waterway Permit Number 96-045.





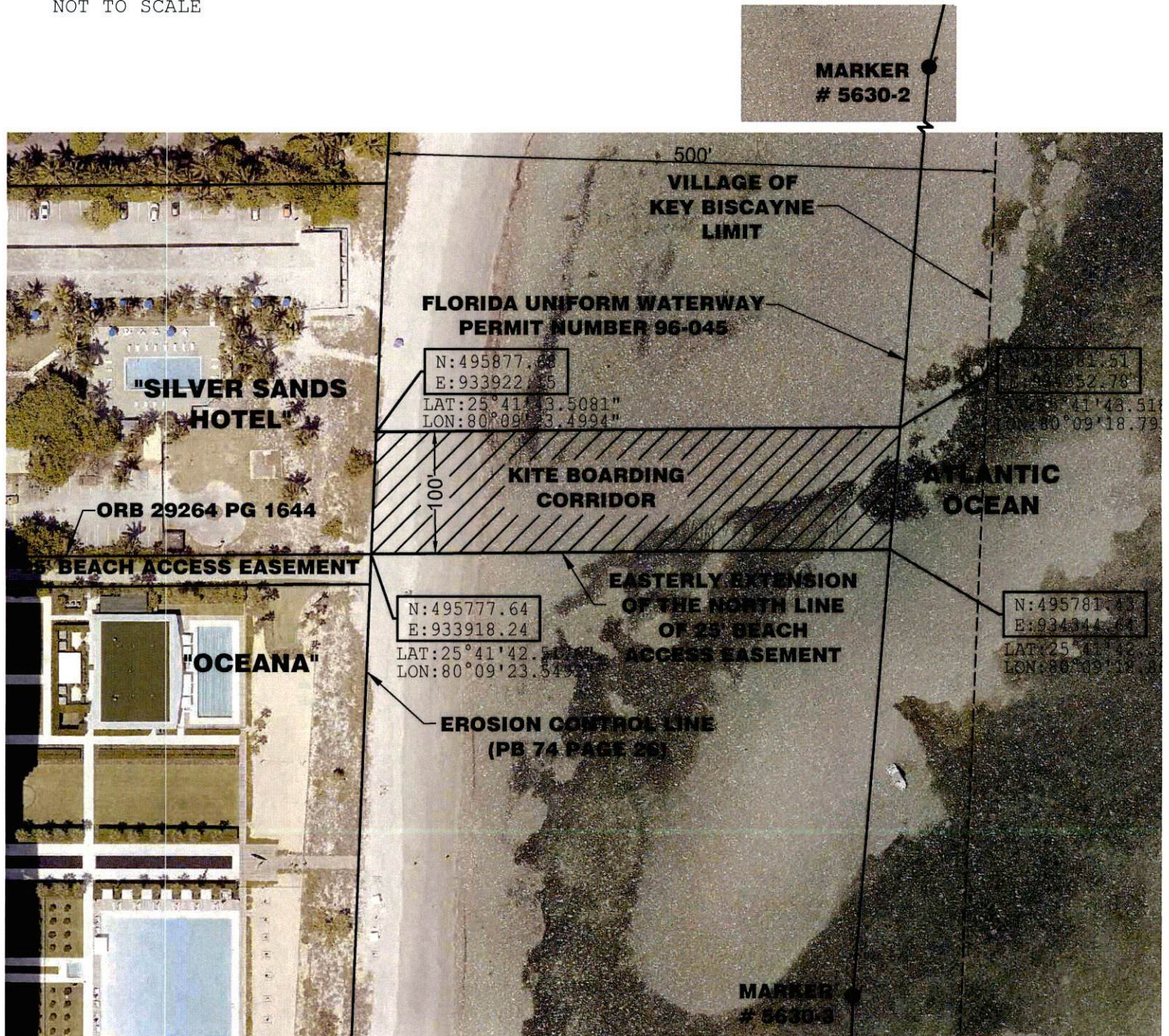
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SUBSURFACE UTILITY ENGINEERING

NOT TO SCALE



COORDINATES SHOWN HEREON ARE BASED ON  
FLORIDA STATE PLANE COORDINATES SYSTEM  
EAST ZONE NORTH AMERICAN DATUM (NAD83)

**LEGEND**

P.B. = PLAT BOOK	(C) = CALCULATED DISTANCE
PG. = PAGE	(M) = MEASURED DISTANCE
SEC. = SECTION	P.O.C. = POINT OF COMMENCEMENT
R/W = RIGHT OF WAY	P.O.B. = POINT OF BEGINNING
LAT = LATITUDE	
LON = LONGITUDE	



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for

VILLAGE OF KEY BISCAIYNE

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**SOURCES OF DATA:**

Plat of "MATHESON ESTATE" as recorded in Plat Book 46, at Page 86 of the Public Records of Miami-Dade County, Florida.

Plat of "EROSION CONTROL LINE" as recorded in Plat Book 74, at Page 26 of the Public Records of Miami-Dade County, Florida.

25-FOOT North Beach Access Easement as Recorded in Official Records Book 29264 at Page 1644 of the Public Records of Miami-Dade County, Florida.

Florida Uniform Waterway Permit Number 96-045 AS per the Florida Fish and Wildlife Conservation Commission.

Coordinates shown hereon are based on Florida State Plane Coordinates System, East Zone North American Datum (NAD83)

**EASEMENTS AND ENCUMBRANCES:**

No information was provided as to the existence of any easements other than what appears on the underlying Plat of record. Please refer to the Limitations portion with respect to possible restrictions of record and utility services.

**LIMITATIONS:**

Since no other information other than what is cited in the Sources of Data were furnished, the Client is hereby advised that there may legal restrictions on the subject property that are not shown on the Sketch or contained within this Report that may be found in the Public Records of Miami-Dade County, Florida or any other public and private entities as their jurisdictions may appear. This document does not represent a field boundary survey of the described property, or any part or parcel thereof.

**SURVEYOR'S CERTIFICATE:**

I hereby certify to Village of Key Biscayne: That this "Sketch to Accompany Legal Description," was prepared under my direction and is true and correct to the best of my knowledge and belief and further, that said Sketch meets the intent of the "Standards of Practice for Land Surveying in the State of Florida", pursuant to Rule 5J-17.051 of the Florida Administrative Code and its implementing Rule, Chapter 472.027 of the Florida Statutes.

By:

Date:

2/15/18

Abraham Hadad, P.S.M.

For The Firm

Professional Surveyor and Mapper LS 6086

HADONNE CORP.

Land Surveyors and Mappers

Certificate of Authorization LB7097

1985 NW 88 Court, Suite 201

Doral, Florida 33172

305.266.1188 phone

305.207.6845 fax

NOTICE: Not valid without the signature and original raised seal of a Florida Licensed Surveyor and Mapper. Each Sheet as incorporated therein shall not be considered full, valid and complete unless attached to the others. This Notice is required by Rule 61G17-6 of the Florida Administrative Code.

## MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and  
Legal Holidays  
Miami, Miami-Dade County, Florida

### STATE OF FLORIDA COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared JOHANA OLIVA, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

VILLAGE OF KEY BISCAYNE - ORDINANCE - JAN. 23, 2018

in the XXXX Court,  
was published in said newspaper in the issues of

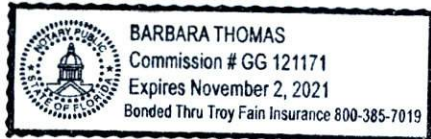
01/11/2018

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

*Johana Oliva*  
Sworn to and subscribed before me this  
11 day of JANUARY, A.D. 2018

*Barbara Thomas*  
(SEAL)

JOHANA OLIVA personally known to me



### VILLAGE OF KEY BISCAYNE OFFICE OF THE VILLAGE CLERK PUBLIC NOTICE

Notice is hereby given that the following ordinance will be considered on Second Reading by the Village Council of the Village of Key Biscayne at a meeting to be held on Tuesday, January 23, 2018 at 7:00 p.m., in the Council Chamber, located at 560 Crandon Boulevard, Key Biscayne, Florida:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 4, "BOATS, VESSELS AND WATERCRAFT," REGULATING KITEBOARD USE; AMENDING ARTICLE II OF CHAPTER 4 BY THE CREATION OF SECTION 4-33 "KITEBOARDING;" PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

The proposed Ordinance may be inspected by the public at the Office of the Village Clerk. Interested parties may appear at the Public Hearing and be heard with respect to the proposed Ordinances. Any person wishing to address the Village Council on any item at this Public Hearing is asked to register with the Village Clerk prior to that item being heard.

In accordance with the Americans With Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Office of the Village Clerk, 88 West McIntyre Street, Suite 220, Key Biscayne, Florida 33149, telephone number (305) 365-5506, not later than two business days prior to such proceeding.

Should any person desire to appeal any decision of the Village Council with respect to any matter to be considered at this meeting, that person shall insure that a verbatim record of the proceedings is made including all testimony and evidence upon which any appeal may be based (F.S. 286.0105).

Comments of any interested party relative to this matter may be submitted in writing and or presented in person at the public hearing.

Jennifer Duque, CMC  
Village Clerk

1/11

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